1944. K File No. O. Explosive 44

Legal Dept-

A BRANCH

Subject:— Opinions under the Indian Explosive Act, 1884

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31/7/46

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Submitted.

2. In Ahmednagar Sessions Case No. 47 of 1943, one Balvant Gopal Ghate was charged for offence under section 4(a) and 6 of the Explosive Substances Act, 1908, along with section 6(3) of the Indian Explosives Act, 1884, and section 19(f) of the Indian Arms Act, 1878. On the very first day of the trial, the Counsel for the accused applied to the Court that the consent of Government purporting to be the sanction under section 7 of the Explosive Substances Act was not legal and proper as it did not specify the facts constituting the offences with which the accused was charged. The Additional Sessions Judge, Ahmednagar, directed the Public Prosecutor to obtain before the termination of the case another sanction from Government "more specifically relating to the offence with which the accused was charged". An amended sanction was accordingly obtained by the Public Prosecutor and and placed before the Court. The order according sanction to the institution of the said trial was shown to and settled by H.L.A. (please see R.L.A.'s No. 1333, dated the 18th February 1944). The Public Prosecutor was also directed by H.L.A. to press before the Additional Session Judge, Ahmednag the view that the original consent order was perfectly valid and also to obtain a definite ruling on the point from the Court. It appears that the Public Prosecutor did place the matter before the Court accordingly. The Court, however, did not give any definite ruling on the point but observed that it seemed to be a matter of reasonability that the consent order should specify not only the fact that Government gave its consent to the trial of a particular accused under particular section of the Act but that the order also indicated the main fact or facts constituting the ingredients of the particular offence or offences for the prosecution of which sanction was given and that such a statement would make it perfectly clear and definite that the consent was obtained and based on the materials on which the

3. Please see para. 3 of the H.D. office note at page36 ante. It is stated therein that as no definite ruling has been given by the Additional Sessions Judge, Ahmednagar, on the point constituting the ingredients of the particular offence ~~the~~ for which the prosecution is sanctioned, the consent orders in such cases should continue to issue in the usual old form which does not state the main facts constituting the offence. The papers are shown to the R.L.As. for remarks if any.

A.C.
V.R.K.
1/8/56

Office of the H.L.A.

Seen and returned.

Sd/- P.N.M.
21/7/44

Remembrancer of Legal Affairs.

U.K. to H.D. (Spl.) No. CC-P-Confl. dated the 22nd July 1944

4 c.
V.R.K.
1/8/CC